THE ATTACK ON

RAILROAD CAPITALIZATIONS

BY

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It is persistently alleged that the President has in mind further drastic railroad legislation. One report is that he is going to fight over-capitalization, with the intent that railroad charges shall be proportionate to the actual cost of the properties. This programme is quite in line with the demands of a considerable portion of the people; and sooner or later there will very likely be an irresistible appeal for its adoption. If "the people" continue in their present mood, what better issue for the 1908 campaign could be found?

But the issue should not be raised without due consideration of the consequences. We can conceive of no better way to hasten government ownership; and the first question we need ask is whether that is what we want. Personally, we do not believe that is at all what the bulk of the people of the United States want. Clamores horrendos ad sidera tollunt; the advocates of government ownership are relatively insignificant in number, but they seem capable of raising a tremendous din. It is a queer paradox that error usually has

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all the courage of its convictions, while truth steals timorously from corner to corner with muffled countenance and mute lips. The danger is that government ownership will some day be fixed upon us without any real desire on the part of the public. Such things have been before. The people as a whole made no demand for the Sherman silver law of 1890. They knew little about silver and cared less; but a noisy faction, by persistent effort, succeeded in effecting silver legislation, as part of a corrupt bargain incidental to the passage of the tariff law of 1890. The dreadful consequences of the Sherman law aroused the people to thought; they found themselves hard hit, and they shook off their indifference long enough to ask what had hit them. Consequently, in 1896, there was a full, earnest, and sound discussion of the silver question, and the people easily saw what they might have seen time out of mind if they had cared to give thought to the matter—namely, that it is quite possible to have too much of a good thing.

Now, it is certainly quite possible to have too much government participation in railroad affairs; and it will be a good thing to appreciate that fact before we go to extremes. What we have to fear is that

we shall find ourselves at extremes before we know it, before we have made up our minds what it is we really want, and how we should go about to get it. The President has determined that posterity shall know him as a great benefactor of mankind; and when a person in his position gets such a purpose in mind it is time for people who believe in economic law to tremble. If exact equality could be meted out to every individual, the average of human happiness might conceivably be higher. We say conceivably, because it is barely possible that if each of us had what he considers his just deserts, there would be no further incentive to live. But assuming that equality in the matter of opportunity would surely promote joy in existence, is it possible to secure such equality by legislative enactment? Apparently not.

The immortal charter of American liberty assures us that all men are created equal; it declares that this fact is self-evident. Yet if there is anything that is not self-evident it is precisely this. In the eye of heaven all men are no doubt created equal; and when the dies irae shall arrive, distinctions of wealth and learning will count for nothing. But here on earth they always have counted for a great deal, and

always will. Nothing pertaining to mankind is more self-evident than inequality of brain power and individual initiative. Consequently, nothing is more absurd than the attempt to level, by force or legislation, the economic distinctions existing between man and man. There is some chance that a persistent effort on the part of everybody —an effort which none of us is likely to behold—might obliterate moral distinctions and produce a common type of moral righteousness; but that, we fear, is something which most of us have scant time to think about. In affairs involving the intellect it is quite otherwise. It never has been and never will be possible to make all men think with the same acuteness and act with the same vigor. It might be possible, by force or legislation, to deprive the shrewd and energetic of the greater portion of their wealth, and reduce them to the level of the dull and listless; but the process of natural selection would immediately assert itself again, and a new inequality would quickly be evolved.

Hence, it is a misplaced zeal that would secure for all men an equality of opportunity. Such opportunity is contra naturam; and not to perceive the fact is to endanger the whole body politic and the whole industrial prosperity. The Presi-

dent is not yet avowedly a Socialist, but his actions are calculated to diminish the individual initiative of his countrymen, and hence by a simple process of elimination to hasten a regime of collectivism. The aim of industry throughout the ages has been to escape from the trammels of state interference. It is generally recognized that only as it has shaken itself free from such trammels has it reached anything like its true development. But by a queer irony of fate the freest people on earth are now, if their Chief Executive fairly represents them, intent on shackling themselves once more. We seem strangely anxious to get back to the fleshpots of Egypt.

It is manifestly impossible to secure equality of opportunity by legislation. If it were possible, the end might conceivably sanctify the means. But such not being the case, why resort to needless injustice? Private right should never be invaded unless the public good is certain to outweigh the private wrong. That cannot possibly happen in the case before us. If railroad charges are made proportionate to a "fair return on the capital actually invested," the country will be worse off, instead of better. This can easily be shown. The initiative of capital would be immensely impaired. Capital would think

twice before it rendered itself liable to another attack of this sort. It would say, "Oh, well, if the state is going to deprive us right along of our profit in building up industries, we had better go slow!" Hence the future development of the country by private resources would be greatly retarded.

And capital would be likely to say to Uncle Sam, "You have taken away our incentive to run the railroads, and the best thing we can do is to sell them to you at the best price we can get." Thus the way to government ownership would be made easy. In this event, the government would pay at least the actual cost of the properties. It would then proceed to reduce rates to a figure proportionate to "a fair return" on such an investment. But we all know from the experience of the Postoffice that its cost of management would soon begin to exceed that under private management, and in all probability, unless rates were advanced once more, the national treasury would be called upon to shoulder a huge railroad deficit. In short, the people would soon be paying additional taxes.

Some of the details of the programme attributed to the President would be very distressing. What would become of the "innocent purchasers" of railroad securi-

tions? We may assume that the capitalizations of the railroads have been heavily watered. Yet on this excess dividends have been paid, or promised, and the securities have been sold to bona fide investors for cash; and in a great many cases the cash consideration has been very high indeed. If the railroads are not going to be allowed to earn more than a "fair return" on the capital actually spent on the property, these "innocent purchasers" will be subjected to excruciating losses. That is a very disagreeable feature of the President's alleged railroad policy.

Here is another. A great part of the American railroad mileage was constructed in advance of the actual needs of the districts traversed. That is, the roads were built for the express purpose of opening up the country. The railroad mileage of the United States was 30,626 in 1860; in 1900 it was 194,262. The importance of these figures cannot be over-estimated. They show how the marvellous development of the west was effected. But a vast railroad mileage has still to be constructed. How shall it be done? In advance of development, or subsequently to it? If the latter, and not the former, then our material progress must be slower. But in all probability Uncle Sam would say,

"I'll do as private capital used to do, and build in advance of development." This, however, is a delicate matter. Building in advance is apt to involve a great many mistakes of judgment, and consequently heavy losses of capital. The railroad construction of the last forty years has produced a vast number of such instances. Under government ownership such losses would be made good out of the taxes which the American people pay into the national treasury.

Consider this also. When private capital built into a new and undeveloped country it was conscious that it took a great risk. Now, capital never takes a great risk without adequate compensation. The compensation in this case was obtained by issuing capital stock in excess of the money actually spent on construction. In a great many instances, not only was this excess stock worthless, but heavy losses were also taken on the stock representing actual money put into the roads. Under government ownership such a course could not consistently be pursued. Let us assume that it would not be pursued. What then? Why, then Uncle Sam would either not build into new country, or would build with the chance of a big loss.

And there is still another disagreeable

contingency. The dishonest contractor would find Uncle Sam splendid game under a policy of government ownership. Furthermore, what chances there would be for connivance between dishonest contractors and government department employees! Whiskey frauds, star route frauds, postal frauds, land office frauds—would they not soon be completely forgotten in railroad frauds?

And all this for the purpose of gratifying a shallow philosophy and a mawkish sentimentality! Though the railroads were guilty of all the sins charged against them, such a course as the President is alleged to have in mind would be a monstrous evil—and monstrous not only on moral grounds, but even more on economic. We have always been fond of prating about the morality of our acts. Would to heaven we really were as moral as we picture ourselves! We have a strange fashion of confounding morality with self-interest—a thing is moral or immoral not so much because it conforms to or violates an eternal principle, but because it facilitates or retards the gratification of our personal desire. Over-capitalization of railroads has been part of the established railroad policy of this nation. The nation has recognized it as such, knowing full well

that it was only by this means that it could acquire the railroad mileage necessary to the rapid development of its vast resources. It was not a moral question at all. There was nothing ethically wrong in the over-capitalization. The people who bought the excess stock of the railroads knew that they were buying certificates against a contingent equity, which might or might not be created; and at the period when the nation keenly felt the need of railroads, and was willing to go to almost any length to get them, it was willing that railroad stockholders should have the right to large profits to compensate them for their risks in employing their capital in hazardous projects. Constructively, the nation agreed that the railroads should have the right to over-capitalize. Hence, to deprive them at this late day of all the advantages of that right would be to commit a horrid breach of faith. Above all, the nation should desire to play the game fair.

Some of the economic evils of the proposed policy have already been hinted at. Going farther, it may be said that such a policy could not be instituted without a temporary crash of stupendous proportions. It would mean practically the wiping out of hundreds of millions of assets, which would mean poverty and

bankruptcy on a huge scale. But perhaps the nation could afford to face such a contingency were it but the prelude to a new and more wholesome economic situation. But we have absolutely no guarantee that it would be such a prelude. For the fact complained of is itself not unwholesome. Capitalization of profits is a perfectly sound economic policy, political agitators and demagogues to the contrary notwithstanding. A private individual would be highly indignant if he were told that the profits and good will which he had created in his business did not belong to him, and consequently could not be considered part of the stock in trade which he could charge up as capital. If that were unjust to a private individual, it must be equally unjust to a corporation, even to a railroad corporation. If there is nothing in the special charter of a railroad, or in the general law under which a road is incorporated, limiting its profits to a certain figure, the railroad is in equity entitled to what it can earn, with one proviso. It is not only declared by recent statutes, but it has from the start been the settled policy of Anglo-Saxon communities that the rates charged by common carriers shall be equitable. The law has never recognized the right of carriers to make discriminating rates. As a matter of fact,

railroads have commonly made such rates in the past, and the state is no doubt within its rights in attempting to break up the practice. But farther than that it cannot go, without creating a situation more deplorable than the one it aims at mending.

A few years ago the policy which we have been discussing would have seemed inconceivable. Today almost anything seems conceivable; the American people have lashed themselves into a berserker rage and appear regardless of the consequences of their acts. They have, indeed, under a popular leader practically resolved themselves into a mob and entered upon a wild career of destruction. No one can predict what irreparable harm will be done to the republic before their fury spends itself. It is pitiful to see a nation, with the strength of a giant, give itself over to a childish rage. There are worse evils than over-capitalization of railroads, assuming this to be as monstrous as the wildest agitator declares. From the standpoint of morals, few things are more shocking than laws which compel men to violate contracts entered into in good faith. From the standpoint of economics, nothing is more baleful than laws which restrain individual initiative. Both of these evils

as inherent in the policy now attributed to the President of the United States.

Who is the President of the United States that he should constitute himself a very *deus ex machina?* The first prerequisite of greatness is modesty. For want of it empires have been hastened to their ruin by ambitious rulers. There is an overruling providence that rectifies the mistakes of mankind and laughs their iniquities to scorn. If our railroads have done evil in the sight of heaven, their punishment is certain, and it will be more swift and more effective if left to the laws eternally fixed for the governance of mankind, than if undertaken by the limited intelligence of any man or any set of men. The President and his advisers should recall that splendid assertion of Burke's regarding the "wise Disposer of all-things, who obliges men, whether they will or not, in pursuing their own selfish interests, to connect the general good with their own individual success."

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